

# 2016 IT Procurement Reform Solutions

The below research-backed best practices and positions taken by the **National Association of State Procurement Officials** are designed to help educate and inform state officials who are considering procurement reform specific to information technology. These solutions are the procurement perspective on the recommendations offered by our partners at the National Association of Chief Information Officers (NASCIO).

IT procurement reform is a top priority for state procurement, and NASPO endorses the recommendations of our partner association with the below solutions and best practices.

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It is important to note that NASPO is committed to the belief that decisions about state procurement systems and procurement policy are best done in collaboration with procurement officials and elected leaders, who can best determine how to govern and affect change in accordance with state constitutions and statutes.

## Remove unlimited liability clauses in state terms and conditions

Research by the National Association of Chief Information Officers (NASCIO) indicates unlimited liability clauses in information technology contracts can often lead to altered bid prices and decreased competition. Many states find that a better alternative to unlimited liability is setting a cap on liabilities. States can determine how likely the risk of a failure is, and what a reasonable amount to protect the state's interest should be if it fails as a result of the contractor's failure to perform. (See [NASPO's 2015 State and Local Procurement: A Practical Guide](#))

## Introduce more flexible terms and conditions

Rapid advances in technology have spurred many states to replace traditional commodity IT services (such as infrastructure needs and software expenses) with subscription-based products through cloud technology. Traditional procurement vehicles are not always suited for such purchases and cloud computing brings in additional challenges when it comes to crafting terms and conditions and comparing pricing models. Many NASPO member states have adopted terms and conditions specific to these emerging technologies. (See Center for Digital Government's [Best Practice Guide for Cloud and As-A-Service Procurements](#)).

## Remove required performance bonds from vendors on information technology projects

Most states do not require performance bonds for goods and services, including IT. When performance bonds are used for IT projects and services, it can limit competition for smaller companies who do not have the capital to participate in larger projects. In addition, changes in the bond market have increased the cost of performance bonds exponentially for states. States should consider pursuing other tactics to lower risks and ensure protection of state interests. (See NASCIO publication [Leaving Performance Bonds at the Door](#)).

## Leverage enterprise architecture for improved IT procurement

NASPO has long held the belief that when states begin to plan for business, information, and technological improvements, procurement officials must be involved early and often in the process to encourage a more holistic and strategic approach, avoid communication gaps and make the procurement process more efficient and effective. This inclusion and early involvement can enable procurement officials to choose appropriate procurement approaches that best recognize and align with enterprise IT strategies, architecture and standards based acquisitions. (See [NASPO's 2015 State and Local Procurement: A Practical Guide](#))

## Improve the Negotiations Process

Negotiation is an important tool that can be used to improve competition, but it does not replace the important role that competition plays. NASPO supports states working to improve the negotiation process for IT project as long as competition, fairness and transparency in process remain at the forefront. NASPO ValuePoint procurements follow the ABA Model Procurement Code related to discussions and offers, and many states have independent authority to conduct negotiations as a way to increase competition. (See IJIS Institute [Strategies for Procurement Innovation and Reform](#))